

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DAVIN SIMMONS,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 4:05CV511(SNL)

**ORDER OF DISMISSAL**

**IT IS HEREBY ORDERED** that movant's motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1] is **DISMISSED**, without prejudice, as time barred.

**IT IS FURTHER ORDERED** that if petitioner appeals from the dismissal of his § 2255 motion, then a certificate of appealability shall not issue.

Dated this 27th day of June, 2005.

  
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SENIOR UNITED STATES DISTRICT JUDGE